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NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

MARTIN ESCARDO-NACIANCENO,

Petitioner,

v.

IMMIGRATION AND NATURALIZATION
SERVICE,

Respondent.

No. 01-71586

INS No. A72-676-330

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted January 16, 2003
San Francisco, California

Before: HUG, ALARCÓN and GRABER, Circuit Judges.

Petitioner Martin Escardo-Nacianceno ("Escardo"), a Philippines citizen,
seeks review of the denial of his applications for asylum and withholding of
deportation. He contends that the Board of Immigration Appeals ("BIA") erred by

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by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

finding that internal relocation within the Philippines was a reasonable way to avoid future persecution. We have jurisdiction under 8 U.S.C. § 1105a(a), and we deny the petition for review.

Escardo argues that he is entitled to asylum and withholding of deportation because he has a well-founded fear of persecution from the New People's Army ("NPA"), a communist guerrilla organization operating in the Philippines. The BIA found that internal relocation was reasonable for Escardo and that he had failed to carry his burden of proof in demonstrating that a reasonable person in his circumstances would fear persecution.

Because the facts are known to the parties, we do not recite them here.

Even if we were to find that Escardo suffered past persecution, entitling him to the rebuttable presumption of future persecution, we hold that his fear of future persecution is not well founded because the INS has carried its burden by proving by a preponderance of the evidence that it is reasonable for him to relocate internally within the Philippines.

No evidence was presented to show that, after the eight years he has been gone, the NPA is still interested in him. In fact, Escardo's wife and children have remained in different parts of the Philippines for the past eight years without incident. *See Cuadras v. INS*, 910 F.2d 567, 571 (9th Cir. 1990) (stating that

appellant's claims were undercut by the fact that his father and brother have not been harmed and remained in El Salvador for five years). The State Department's report on conditions in the Philippines shows that the NPA number fewer than 8,000 members, are diminishing in size and resources, and have a significant presence in less than two percent of the country, principally in the southern Island of Mindanao. Finally, Escardo testified that while working in other areas of the Philippines, including Legaspi, he had no problems with the NPA.

PETITION DENIED.